

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES, §
§
Plaintiff, §
§
v. § NO. 3:13-CV-03236-K
§
LUMINANT GENERATION §
COMPANY LLC and BIG BROWN §
POWER COMPANY LLC, §
§
Defendants. §

ORDER

Before the Court is the Motion to Stay by Defendants Luminant Generation Company LLC and Big Brown Power Company LLC (“the Motion”) (Doc. No. 13). The Court finds that the Motion should be, and hereby is, **GRANTED**. All other motions currently pending before the Court in this case are hereby **DENIED without prejudice to refile**. The case is **STAYED pending resolution of the related cases currently before the Fifth Circuit**.

In this instance, the Court’s power to stay the proceedings flows from its inherent power to manage its docket and conserve the resources of the Court, counsel, and litigants. *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). The decision to grant a stay is firmly within the Court’s discretion. *See Save Power Ltd. v. Syntek Fin. Corp.*, 121 F.3d 947, 948 (5th Cir. 1997). The four-factor test the Government argues should control is

not applicable in this situation. Each of the cases the Government cites involve direct appeals of an adverse judgment.

Here, there is no judgment to appeal. The stay is requested to conserve judicial resources while a first-filed case resolves overlapping, controlling issues. This case is only properly before this Court if the Notices of Violation (“NOVs”) have been properly prepared and filed. The Fifth Circuit is currently reviewing the legal sufficiency of the NOVs in the related cases. Absent a stay, this suit would proceed despite the possibility that the Fifth Circuit’s ruling may require dismissal of this suit. The Court finds that the best use of the time and resources of the judiciary and the parties is to grant a stay. The Court will exercise its inherent authority and stay the case pending the Fifth Circuit’s resolution of the related cases.

There appears to be no further reason at this time to maintain the file as open for statistical purposes. The Clerk is therefore instructed to submit a JS-6 form to the Administrative Office, thereby removing this case from the statistical records.

Nothing in this Order shall be considered a dismissal or disposition of this case. Should further proceedings become necessary or desirable, any party or the Court may initiate such further proceedings in the same manner as if this Order had not been entered.

The Parties are hereby **ORDERED** to file a Joint Report with the Court within **15** days from the date of the Fifth Circuit's resolution of the related cases. The Joint Report shall contain a statement on how the parties wish to proceed with this litigation.

SO ORDERED

Signed January 10th, 2014


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UNITED STATES DISTRICT JUDGE